

# Managing Attendance Policy

August 2024

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## 1. Policy statement

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- 1.1 The Council understands that employees may need to be absent from work from time to time due to sickness. This policy supports employees and their line managers in handling time off from work where the reason for absence is sickness. The Council aims to support as many employees as possible to attend work at all times during their working week. Sickness absence needs to be managed so that levels of attendance can be maximised, and any problems resolved.
- 1.2 This policy also outlines the process to be taken when an employee is incapable of carrying out their job role due to a long-term illness, persistence absence or a disability.
- 1.3 This policy applies to absence caused by personal illness or accident, not the need to take time off work because of the illness or accident of others, e.g., children or partners. The provision of Special leave is detailed in a separate document.

## 2. Roles and Responsibilities

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### Individual Responsibilities

- 2.1 Maximising effective attendance is the primary responsibility of an individual. Individual members of staff have a responsibility to take care of their own health and wellbeing, seeking support and guidance as required. When absent due to illness or injury, staff must maintain contact with their manager and others in accordance with the absence reporting procedure and adhere to the principals of this policy.
- 2.2 On the first day of sickness absence staff should personally contact their manager (or other central reporting point), through the method of contact agreed with their manager or via telephone if no other method has been agreed, on the day of their absence, ideally prior to their start time, but no later than 1 hour after their start time, to advise them that they will not be attending work, along with the reasons and likely duration. If staff do not call in without a satisfactory reason, their absence may be counted as unauthorised and therefore be unpaid.
- 2.3 Staff are required to attend any subsequent meetings as requested by their manager, including Occupational Health appointments. At formal meetings, staff may be accompanied by a work colleague or trade union representative. Failure to engage in meetings without a reasonable explanation could result in absence being counted as unauthorised and therefore unpaid and decisions being taken regarding future employment with the Council, under the formal stages of the procedure. The Council will provide support including workplace adjustments, where required to enable engagement in such meeting.

## **Management Responsibilities**

- 2.4 The primary responsibility for the management of attendance rests with managers on the basis that our managers should know their staff and be familiar with the specific needs of the individual and their attendance record.
- 2.5 Managers are responsible for creating an environment in which staff feel well supported and are able to maximise positive attendance with regular attendance at work being expected and problems associated with unsatisfactory attendance being addressed. The manager is responsible for addressing staff sickness absence and managing it in accordance with this policy and procedure.
- 2.6 Reasonable levels of manager discretion may be used when assessing a staff member's individual needs and circumstances, including workplace adjustments. It is particularly important that concerns regarding attendance are discussed and addressed at an early stage.
- 2.7 Managers should discuss any concerns regarding attendance with their staff member and consider fully everything that is relevant and respond appropriately. Return to Work discussions help to make such an assessment.
- 2.8 Managers are also responsible for ensuring that their staff are aware of the range of health and wellbeing support that is available to them and ensure referrals are made in a timely manner, to Occupational Health.
- 2.9 Managers are responsible, following discussions with Human Resources, for considering adjustments, agreed with individuals or recommended by Occupational Health and determining whether they are considered 'reasonable'. Those that are should be implemented to ensure the staff are treated equitably.
- 2.10 Managers are responsible for ensuring all absences are recorded on iTrent and all associated documents are uploaded.

## **HR Responsibilities**

- 2.11 HR will provide guidance, and support in the application of the policy, including training for managers to enable them to deal empathically with individuals who may be unwell.
- 2.12 Advising and supporting with the implementation of workplace adjustments.
- 2.13 Where appropriate HR will liaise with Trade Union colleagues.

### 3. Support Available

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- 3.1 The Council provides an Occupational Health service to support staff and managers. This service is our preferred provider of all medical advice, support and information. Where advice given by Occupational Health differs from the Fit Note, further advice should be sought from Occupational Health. Occupational Health can only provide a full management report if the management referral is completed on time and with sufficient information and questions to enable a comprehensive report.
- 3.2 The Council has a physiotherapy provider for instances where physiotherapy cannot be provided by the NHS within a reasonable timeframe, where a condition is impacting on a staff members ability to undertake their duties sufficiently.
- 3.3 The Council has an Employee Assistance Programme, which can be accessed either on a computer or mobile phone. It provides access to an abundance of advice to support the physical and mental health of individuals and teams.
- 3.4 More information about the support available can be found on the intranet. [Support available](#)

### 4. Returning to work

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- 4.1 When a staff member returns to work after an absence, a face-to-face return to work discussion will be undertaken, ideally on the first day back (by the line manager or another appropriate manager) or within 5 days of the return. These meetings should take place upon return from all episodes of sickness absence (including part days). The completed return to work document will then be uploaded onto iTrent by the manager.
- 4.2 The Return-to-Work meeting is an excellent opportunity to have a conversation to;
- make sure the employee is ready to return to work.
  - talk about any work updates that happened while they were off.
  - see if they need any support.
  - agree on a plan for returning to work, if appropriate, for example a phased return to work
  - talk about what they would like other employees to know about their absence and what they would like to keep confidential.
  - look at any recommendation from the employee's doctor.
  - consider a referral to the Council's support services, e.g. Occupational Health.

- 4.3 The manager should discuss whether there are any work place adjustments they can make to support them to remain in work.

## 5. **Sickness absence recording**

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- 5.1 For the purposes of recording, full day or half day (according to an individual's working pattern) of sickness absence will be recorded. Recording needs to be accurate and timely on iTrent to ensure that pay is accurate. It is the responsibility of the manager to ensure an absence is recorded correctly on iTrent, the day the absence has been reported, that the absence episode is ended on the system in a timely manner, and that all documentation relating to sickness absence is uploaded onto iTrent.

## 6. **Reporting Procedure**

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- 6.1 Apart from certain extenuating circumstances, employees must themselves report their absence to their manager. If an employee fails to follow the reporting procedure, their manager should attempt to contact them. Depending on the circumstances, the Council may withhold occupational sick pay and/or may take disciplinary action.

<b>Individual Responsibility</b>	<b>Line Manager Responsibility</b>
<p><b>Day 1</b>            Notify manager (or nominated person) of sickness absence as early as possible before start time by phone (text messages and e-mails are not acceptable). Partners / relatives would only be expected to ring in exceptional circumstances.</p> <p>If you report sick but requests to take annual leave/flexi time/work from home in lieu of time off sick this shall not be granted.</p>	<p><b>Day 1</b>            Understand reason for absence and how long the individual is likely to be off sick for.</p> <p>Make sure you know the reasons for their absence from their perspective and look at how you could provide any support and facilitate a return to work as quickly as possible.</p> <p>Based on the anticipated return to work date, discuss and agree when the next contact will be made. Depending upon the reason for absence, referral to Occupational Health.</p> <p>Log the absence on iTrent with all relevant information (leave end date field blank).</p> <p>Ensure appropriate cover arrangements are put in place.</p>
<p><b>Day 4</b>            Notify manager (or nominated person) of sickness absence as early as possible before start time by phone (text messages and e-mails are not acceptable). Partners / relatives would only be expected to ring in exceptional circumstances.</p>	<p><b>Day 4</b>            Understand reason for absence and how long the individual is likely to be off sick for.</p> <p>Make sure you know the reasons for their absence from their perspective and look at how you could provide any support and facilitate a return to work as quickly as possible.</p>

	<p>Based on the anticipated return to work date, discuss and agree when the next contact will be made. Depending upon the reason for absence, referral to Occupational Health.</p> <p>Update iTrent with all relevant information (leave end date field blank).</p> <p>Ensure appropriate cover arrangements are put in place.</p>
<p><b>First week of absence</b> Keep in contact with your manager as arranged, providing any updates of your situation such as visit to GP, or change in anticipated return to work date.</p> <p>If you feel uncomfortable speaking to your manager, you should contact your managers manager. You could also speak with your union representative, Occupational Health, or a member of the HR team.</p> <p>A self-certificate or Fit Note must be submitted to your manager if you are absent between 1 and 7 days. If there is anything the Council could do to enable you to come back to work sooner, please let your manager know at the earliest opportunity.</p>	<p><b>First week of absence</b> Make sure you keep in regular contact with the individual and have a conversation about what you can do to support them back to work as soon as possible.</p> <p>Although some absences will clearly necessitate longer periods of time off work (e.g. planned operations), research shows that people who are absent from work over a week are likely to take 1-3 months off sick so the first week is crucial to have the right conversations and think creatively (where possible) about how you can get people back to work.</p>
<p><b>Day 8</b> Ensure that you have requested a Fit Note from your GP or other medical practitioner to cover your period of absence.</p>	<p><b>Day 8</b> Ensure you receive a fit note from the individual covering from day 7 (or before) and upload this onto iTrent. If a fit note is not available on day 8, you should agree timescales for receiving this.</p>
<p><b>Throughout Absence</b> Keep in contact with your manager as agreed and attend all meetings and Occupational Health appointments as requested.</p> <p>Be prepared to contact your manager (or nominated person) with any developments in your absence, such as further FIT Notes, Consultant appointments etc.</p> <p>Submit fit notes on time if you are on long term sick. Failure to do this could lead to absence being classed as unauthorised and unpaid</p>	<p><b>Throughout Absence</b> Keep in regular contact with staff so you understand how they are, find out about any developments in their health and think about what support you can offer. Referring to Occupational Health for further support if required.</p> <p>Keep iTrent updated and ensure all relevant information is uploaded.</p>
<p><b>First day back in work</b> Meet with line manager and participate in a return to work meeting.</p> <p>Discuss any support or training that may be required.</p>	<p><b>First day back in work</b> Welcome staff member back to work and undertaken a return-to-work meeting.</p> <p>Ensure any support mechanisms are in place for the staff member.</p> <p>Update iTrent to close the period of absence and upload any further relevant information.</p>

## 7. Managing Long-Term or Frequent absence

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- 7.1 The following paragraphs set out the procedure for dealing with long-term absence or where the level or frequency of short-term absence has given cause for concern. The purpose of the procedure is to investigate and discuss the reasons for absence, whether it is likely to continue or recur, and whether there are any measures that could improve the employee's health and/or attendance. The Council may decide that medical evidence, or further medical evidence, is required before deciding on a course of action.

## 8. Managing Frequent Absence

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### Frequent short-term absences - Trigger points

- 8.1 Absence triggers enable the Council and line managers to address all absences and ensure absences are managed fairly and consistently. The Council aims to apply these on a consistent basis but accepts that there may be times when these triggers need to be adapted to accommodate some cases based on individual circumstances.

#### **Trigger levels**

- 4 separate occasions of sickness absence in a rolling 12-month period which may include long term absences (excluding injury at work) and/or
- 9 working days sickness absence for full time staff, pro rata for part time staff over a rolling 12-month period and/or
- An overall absence pattern that may have not resulted in the trigger points being met, but the overall absences are so significant that they are having a detrimental impact on the rest of the team or delivery of the service.

#### **Cross over**

*Staff who have been issued with a letter of concern at Stage 1 or Stage 2 of the process who then have a long-term absence (more than 20 working days) should have a review meeting on their return to work and a decision will be taken on whether this will be considered at the next stage of the short term process or discretion applied and / or be considered in line with the long term process.*

#### **NOTE**

*At all stages, the number of working days is pro rata for part time staff aggregate over a 12-month rolling period.*

#### **Stage 1 review meeting**

- Issue first letter of concern – target set that 4 further absences or 9 working days within the 12 month period will trigger formal action under this procedure. OR
- Discretion applied not to issue letter of concern. Attendance will continue to be monitored and a further absence within the 12-month period will trigger a further Stage 1 review

#### **Stage 2 review meeting – if failure to meet targets agreed at stage 1**

- Issue final letter of concern – target set that 4 further absences or 9 working days within the 12 month period will trigger formal action under this procedure. OR



- Discretion applied not to issue letter of concern. Attendance will continue to be monitored and a further absence within the 12-month period will trigger a further Stage 2 review

### **Stage 3 final review hearing – if failure to meet targets agreed at stage 2**

- Dismissal due to the individual's unsatisfactory attendance and the Council's inability to cope any longer with the overall level of sickness absence.  
OR
- Other outcomes may include setting a further attendance target and/or adjustments to working arrangements which are felt would improve the level of attendance. Any further breach of the target within the 12-month period is likely to trigger a further hearing

### **Right of appeal**

- Appeals against dismissal to be sent to the Director of People and Inclusion for a members' appeal.
- Appeals against other outcomes from a review hearing, should be addressed to the relevant Director/Assistant Director for the service.

## **Staged Review Meetings**

- 8.2 At both stages, the meeting should be held as soon as possible and within 20 working days of the end of the period of absence which triggers the meeting.
- 8.3 The line manager will conduct these meetings, and may be supported by a HR representative. The staff member should be notified in writing of the date, time and purpose of the meeting at least 5 working days in advance.
- 8.4 The staff member is able to be accompanied by a workplace colleague or recognised Trade Union representative, should they wish.
- 8.5 These meetings will be held face to face, however in exceptional circumstances, they may be undertaken by other communication channels.
- 8.6 Consideration should be given to the following in determining whether or not to issue a stage 1 or 2 letter of concern:
- It may be more appropriate to consider showing discretion rather than issue an attendance target. In these situations, setting of a formal target would not be appropriate (or helpful) and it would be expected that attendance be monitored in line with the normal trigger levels and associated absences prior to the adjustments will not be counted towards the trigger.
  - To discuss and explore workplace adjustments that could support improved attendance at work and/or prevent further absences.
  - Ensure staff are aware of their contractual responsibility to attend work if fit and well to do so and that it is reasonable to expect levels of sickness absence to improve. Where this does not happen, or if sickness absence levels increase further it may result in formal action being taken.

- Where there is an identified underlying medical issue stated, this should be confirmed by a medical practitioner or Occupational Health. If the condition is likely to prevent sustained attendance at work adjustments may need to be implemented, which may include redeployment. If the individual's attendance does not improve sufficiently then a further meeting with them, their representative, the manager and HR Representative (if appropriate) to discuss next steps should take place.

8.7 Staff have the right to be accompanied at these meetings by a Trade Union representative or work colleague.

### **Stage 3 Final Review Hearing**

8.8 Staff will be notified no later than 7 calendar days prior to a hearing being convened and provided with copies of all relevant documentation to be considered.

8.9 The staff member has the right to be accompanied at the meeting by a trade union representative or a colleague.

8.10 The hearing will allow for a full review of the facts of the case, including:

- staff's past, present and potential future sickness absence record
- the reason for absence(s)
- whether or not there is an underlying health condition consideration of up-to-date medical advice
- whether or not all reasonable steps been taken to support the staff, e.g. workplace adjustments and redeployment.
- any mitigating circumstances
- service needs

8.11 Staff who fail to attend a hearing will be notified in writing and provided with one further opportunity to attend. Failure to attend on the second occasion without a reason deemed acceptable by the Council will result in the case being heard and a decision made in the individual's absence.

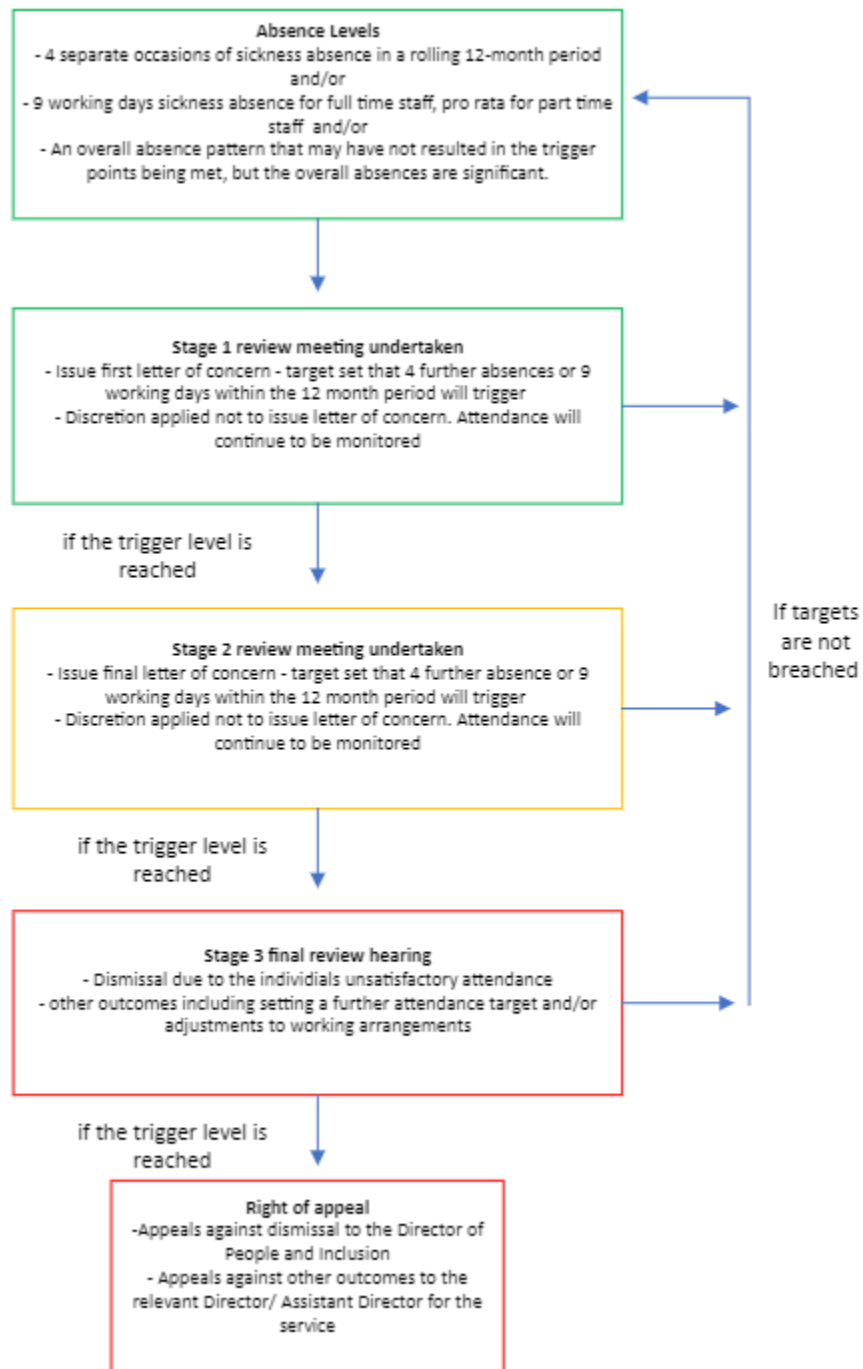
8.12 Where dismissal is being considered, managers must ensure that an up-to-date medical opinion has been received prior to any decision being taken to dismiss the individual from employment and that all reasonable steps and other options have been exhausted. Where staff are applying for ill health retirement a final hearing will still be arranged.

8.13 The possible outcomes of a hearing due to persistence sickness absence would be;

- Dismissal due to the individual's unsatisfactory attendance record and the Council's inability to cope any longer with the overall level of sickness absence. OR
- Further attendance target set and/or adjustments to working arrangements which are felt would improve the individual's overall level of attendance. If

a warning is issued any further breach of sickness absence targets should result in a further formal hearing being convened.

## 9. Frequent Short-term absence (FSTS) Flow Chart



## 10. Managing Long-term Absence

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### Long-term sickness

- 10.1 Long term absence is usually defined as lasting at least 4 weeks (28 calendar days), irrespective of an individual's working pattern.
- 10.2 While the Council is keen to assist employees who are absent, it cannot offer indefinite support. The Council will be keen to get any employees absent due to long-term sickness back into the workplace as effectively as possible, but the employment may need to be terminated if this cannot be achieved in the near future.
- 10.3 Managers should aim to meet with staff who have been absent from work for 4 weeks or more, on a monthly basis as a minimum. The meetings should be held at a convenient location (which could include a home visit where agreed) to discuss the following:
- The projected period of absence or target return to work date (if appropriate).
  - Health update and progress of treatment.
  - The advice from Occupational Health.
  - Explore workplace adjustments
  - Opportunities for rehabilitation and / or redeployment.
  - Support that may be available both within and outside the organisation.
  - Arrange further meetings.
  - Phased return to work

### Phased Return to work

- 10.4 The purpose of a phased return to work is to allow time for staff to be properly rehabilitated by gradually building back up to their full contracted hours and duties. Generally, a phased return should be for a period of up to four weeks with full pay. However, it is acknowledged that this will depend on the individual circumstances and so the period can be extended at the discretion of the line manager and in view of the Occupational Health advice or other health professional. Where this is extended accrued annual leave could be used to prevent a reduction in pay.

### Alternative employment (redeployment)

- 10.5 If a staff member is unable to continue in their current role due to ill health or disability, and/or required adjustments cannot be made, then following medical advice, the Council will make reasonable efforts to find suitable alternative employment within the Council (normally for a period not to exceed 12 weeks). In these cases, the employee's terms and conditions may change from the current role to the alternative role and necessary training will be provided.

### **Ill-health retirement**

10.6 It may be advisable for the employee to consider ill-health early retirement (IHER) provisions in the Council's pension scheme. When they wish for this to be considered an assessment for IHER, should be progressed with Occupational Health following discussion with the individual's Manager and HR Business Partner.

### **Final Review hearing – ill health**

10.7 If following the review meetings, there is no prospect of a return to work in the foreseeable future, a final review hearing will be arranged.

10.8 Staff will be notified no later than 7 calendar days prior to a hearing being convened, provided with copies of all relevant documentation to be considered and informing them that a possible outcome of this hearing is a dismissal based on capability.

10.9 The final review hearing will be chaired by a Senior Manager/Assistant Director/ Director support by a HR Representative. The staff member has the right to be accompanied at the meeting by a trade union representative or a colleague.

10.10 The hearing will allow for a full review of the following.

- discuss the reasons for the employee's absence.
- review the process so far in terms of support offered to allow the employee to continue in the role, including redeployment.
- up to date medical advice
- any mitigating circumstances.
- Service needs

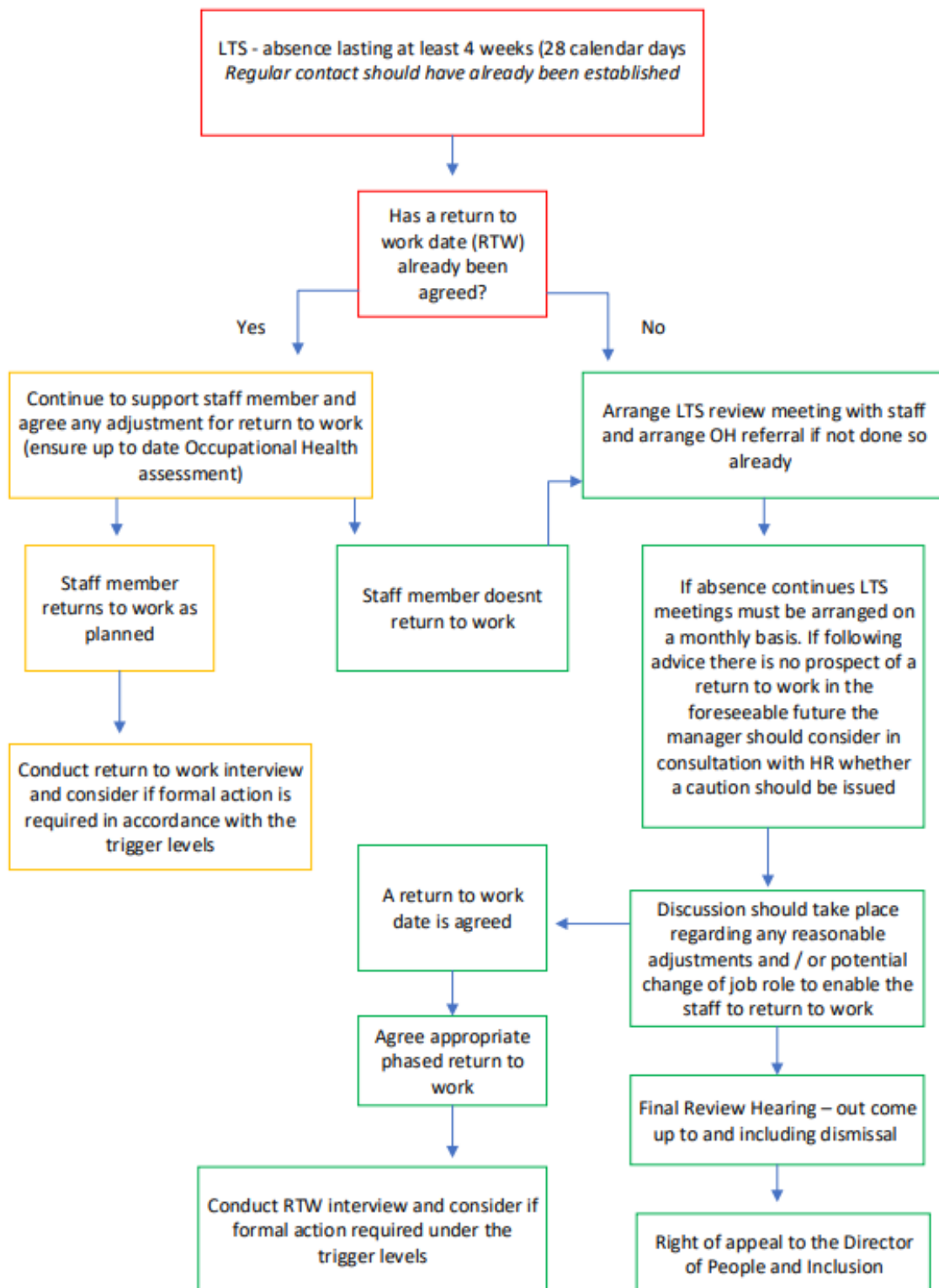
10.11 Staff who fail to attend a hearing will be notified in writing and provided with one further opportunity to attend. Failure to attend on the second occasion without a reason deemed acceptable by the Council will result in the case being heard and a decision made in the individual's absence.

10.12 Where dismissal is being considered, managers must ensure that an up-to-date medical opinion has been received prior to any decision being taken to dismiss the individual from employment and that all reasonable steps and other options have been exhausted. Where staff are applying for ill health retirement a final hearing will still be arranged.

10.13 The possible outcomes of a hearing would be;

- Dismissal on capability grounds due to ill health, OR
- Opportunity to extend monitoring further if a return to work is foreseen or if other adjustments have not been explored sufficiently.

## 11. Long term absence (LTS) flow chart



## Appeals

- 11.1 Staff have the right of appeal against any dismissal or any formal sanction within 10 working days of the decision being communicated:
- Appeals against dismissal to be sent to the Director of People and Inclusion for a members' appeal.
  - Appeals against any other actions from a hearing, should be addressed to the relevant Director/Assistant Director for the service.

## 12. Managers discretion

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- 12.1 Applying discretion is a means by which managers can respond to situations that call for a compassionate interpretation and implementation of the Policy. The aim is for staff to feel they have been treated fairly, reasonably and based on their individual circumstances and that their treatment under the policy is reflective of their value and contribution to the organisation.
- 12.2 Discretion can be applied in situations where attendance can be improved without the need for formal intervention. Discussions should take place as part of the return-to-work interview and a record made that discretion has been applied and the reason given.
- 12.3 Consideration should be given to the following:
- The individual's general absence history (this enables favourable consideration to be given to cases where their attendance has not given previous cause for concern, experiences an unprecedented period of ill health).
  - The reasons for the absence that have resulted in them triggering.
  - The likely duration of the absence and the medical prognosis for satisfactory attendance going forward.
  - The impact on the individual of any unanticipated or extreme life even.

### Meeting Attendance

- 12.4 Managers and employees must make all reasonable attempts to attend the meetings arranged under the procedure within the specified timescales.
- 12.5 Staff have the opportunity to be accompanied by a recognised Trade Union representative or workplace colleague at all meetings under this procedure.
- 12.6 Where an employee/representative is unable to attend a meeting/hearing, every effort should be made to re-arrange the meeting to a mutually convenient date and time, within the set timescales.
- 12.7 If a staff member fails to attend a rearranged meeting/hearing, without appropriate reason, the meeting/ hearing may be held in the absence of the staff member.



## **13. Disability**

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- 13.1 The Council has a duty to make workplace adjustments where an employee has a disability covered by the Equality Act 2010.
- 13.2 If an absence is because of a disability or the illness leaves the employee in a mental or physical condition which falls within the definition of a disability, the Council will do whatever it can to make workplace adjustments to their job to enable them to carry on working.
- 13.3 The duty to make the adjustments is 'reasonable' so if the suggested adjustment is not viable it will not be made. It may also be the case that no reasonable adjustments are possible. An adjustment is assessed as reasonable in regard to the time it will take to apply an adjustment, the effort and resources required to apply an adjustment and/or the overall costs to apply a reasonable adjustment.
- 13.4 The duty to make reasonable adjustments covers elements, such as making changes and adjustments to working hours, adjusting existing equipment, provision of different equipment and amending workplace practices, if the employee is placed at a substantial disadvantage. It may also involve physical changes, such as to the building entrance points, or alterations to the floor plan, furniture etc.
- 13.5 Further advice can be sought from the HR Business partner or Equality, Diversity and Inclusion Manager.

## **14. Pregnancy related absence**

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- 14.1 For the purposes of determining whether or not an individual should progress to the next formal stage of the procedure, absences directly related to pregnancy will not count.

## **15. Work related injury, accident or other health condition.**

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- 15.1 Absence due to Accident, Incident or Injury at work should be reported in the normal way in accordance with the Policy.
- 15.2 In the unfortunate event that an individual's absence has been necessitated by an accident, or injury sustained at work, staff and managers must ensure that records of the incident are recorded using the online reporting system, at

the time of the accident or sustained injury or as soon as reasonable after the event.

- 15.3 The reporting of the accident or sustained injury must be evidenced, and consideration will be given to discount this episode from triggering the formal stages of the sickness absence procedure. Work related absence which is as a result of disputes relating to employment matters or conduct including work related stress will still be counted towards trigger levels.
- 15.4 Absence in respect of normal sickness is entirely separate from absence through industrial disease, accident or assault arising out of or in the course of employment with the Council. Periods of absence in respect of one shall not be set off against the other for the purpose of calculating entitlements under the scheme.

## **16. Medical Suspension**

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16.1 Medical suspension is when the Council tells an employee to stop working because there are health and safety issues such as working with:

- dangerous chemicals
- lead
- radiation

16.2 For example, if someone has been exposed to high levels of lead and has to temporarily stop work to protect their health. Before using medical suspension, the employer should consider:

- making temporary or permanent changes at work
- offering the employee suitable alternative work – with the same pay and terms and conditions

16.3 If it is not possible to make any adjustments, the employer might need to suspend the employee until it is safe for them to return to work.

### **Pay during medical suspension.**

16.4 An employer must pay an employee their usual pay during medical suspension for up to 26 weeks, as long as they have been employed for a month or more.

16.5 An employee will not be entitled to pay if they:

- are not available when needed for suitable alternative work.
- refuse other suitable work from the employer without a good reason.
- are an independent contractor.

## **Other types of medical suspension**

- 16.6 If an employee attends for work (or returns to work after a sickness absence) and the line manager doubts their ability to perform the full range of their duties in a safe way; and/or an employee is unwell or has a condition which causes the line manager concern and might present a risk to the employee or to others, the manager, with the agreement of a HR Chief Officer, may take the decision to suspend on medical grounds.
- 16.7 In this instance, a decision to medically suspend should only be taken following agreement with Human Resources and ordinarily informed by Occupational Health advice. The decision to suspend is a neutral act and should only be taken in exceptional circumstances. The rationale for the suspension must be recorded within a Risk Assessment.
- 16.8 Staff will be paid at full pay for a period of up to 4 weeks subject to attendance at Occupational Health. The suspension should be review within 4 weeks and the staff member should be encouraged to seek the support of a medical practitioner (GP) and obtain certification. The sick pay arrangements and management of the absence will be in accordance with this policy.

## **17. Sickness absence and annual leave**

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- 17.1 Where sickness occurs during periods of pre-booked annual leave, if staff wish to retain their annual leave, they must follow the normal notification procedures. Providing the policy is followed and a Fit Note covers the full absence, the Line Manager would normally approve that the leave can be taken at a later date subject to service needs. Where an individual is off sick, has pre-booked annual leave and intends to travel while covered by a Fit Note, they must discuss this with their Line Manager at an early stage and provide a note from a medical practitioner stating that the holiday would support recovery and a return to work.

### **Taking Leave during sickness**

- 17.2 Employees absent due to long term sickness may request to take paid leave during sickness at any time during their paid or unpaid periods of absence. This can be advantageous to the employee as they will benefit financially if they are on half pay or out of pay. This will not 'break' the sickness episode nor will it trigger a new entitlement to sick pay. Staff wanting to utilise this option should discuss it with their line manager.

### **Carry forward**

- 17.3 When long term sickness absence crosses two annual leave years, staff are able to carry over an amount of annual leave to ensure they have had the full statutory amount of leave (20 days plus bank holidays) in a leave year. Therefore, if a staff member has been off sick for the whole of the leave year, then they are allowed to carry over their full years' statutory leave entitlement (minus bank holidays).

### **Bank holidays**

- 17.4 If a staff member was due to work on the day the bank holiday falls and are off sick, they will be recorded as sick in the usual way and their leave entitlement will be reduced in line with an adjustment in hours for that day. However, if a staff member was not due to work on a day the bank holiday falls and are off sick there will be no adjustment to the leave entitlement.

## Appendix 1: Hearing Procedure

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### Arranging the hearing

- Where possible Hearings will be scheduled to take place on one day or, if necessary, on consecutive days; although it may be necessary to adjourn to seek further information or advice.
- The employee must be informed in writing that they are required to attend a Hearing and that they have the right to be accompanied by a work colleague or a Trade Union representative, or an official employed by a Trade Union. It will be for the employee to arrange the person who will accompany the employee at the Hearing. The employee must be given at least 7 calendar days' notice of the Hearing date, time and venue from the expected date of receipt of the letter.
- The letter will include information about the absence(s) and possible consequences. It will also ask if the employee has any special requirements for the Hearing and will provide copies of previous correspondence pertaining to the absences.
- The employee will be asked to confirm the name of the Trade Union representative or work colleague attending the Hearing. The employee will be asked to provide any documentation that he or she intends to present or rely on at the Hearing at least 3 working days before the Hearing.
- If the employee cannot attend on the scheduled date through circumstances outside of the employee's control, the Hearing will be rearranged for another date. If the employee's Trade Union representative or work colleague cannot attend on the rescheduled date, the employee can suggest an alternative date and the Hearing will be rearranged for that date. However, ideally the rescheduled Hearing will take place no more than 5 working days after the date of the original Hearing.
- If two Hearings have been convened which the employee has been unable to attend, the second Hearing will take place in the employees' absence and a decision will be made based on the evidence available.
- If required, the Chair of the Hearing will seek a medical view from Occupational Health as to whether the employee is fit to attend the Hearing.

### Hearing Procedure

The Chair of the Hearing will introduce everybody and explain the following procedure to both sides: -

1. The Manager from the previous Absence Review Meeting will state the nature of the case, referring to evidence gathered. They will be permitted to produce relevant documentation.
2. The employee will be given the opportunity to ask questions of the Manager from the previous Absence Review Meeting on the evidence given by him/her.
3. The Chair and the HR representative may also take the opportunity to ask questions.
4. The employee will be given the opportunity to state their case, to produce relevant documentation.
5. The employee's companion will be allowed to address the hearing to:
  - Present the employee's case
  - Sum up the employee's case
  - Respond on the employee's behalf
  - Confer with the employee during the hearing
6. The employee's companion will be able to participate as fully as possible in the hearing, including asking witnesses questions. However, the employee's companion cannot answer questions on the employee's behalf, address the hearing if the employee does not wish it, or prevent the management representative from explaining the Management case.
7. No other person, for example partner or relative, will be allowed to attend the Hearing.
8. The Chair and the HR representative will take the opportunity to ask questions.
9. If appropriate, there may be a general discussion to establish all the facts and/or clear up any misunderstandings.
10. The Manager of the previous Absence Review Meeting and employee may summarise the main points of their case. No new evidence or information may be included.
11. The Chair will adjourn to consider the case, with the HR representative.
12. If the Chair wishes to clarify any points of evidence, both sides will be recalled.
13. The Chair will reconvene the hearing to deliver the decision of the Hearing.
14. The decision of the Chair will normally be given verbally at the end of the Hearing and will be confirmed in writing to both parties.
15. The employee will be given the right of appeal (if appropriate) after the decision.

## Appendix 2: Appeal Procedure

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Staff have the right of appeal against any dismissal or any formal sanction within 10 working days of the decision being communicated:

- Appeals against dismissal to be sent to the Director of People and Inclusion for a members' appeal.
- Appeals against any other sanctions should be addressed to the relevant Director/Assistant Director for the service.

The appeal must state the reasons for the appeal, which will be one of the following:

- Any part of the procedure was wrong or unfair.
- The dismissal/ sanction was for an unfair reason.
- There is new evidence.

Upon receipt of an appeal, the Director of People and Inclusion or Director/ Assistant Director for the service will provide acknowledgement in writing, ideally within 2 working days.

Appeal hearings should ideally take place within 30 working days of receipt of the written request. Where this is not possible, the applicant should be informed as soon as practically possible.

### **Appeals against dismissal.**

Following acknowledgement of receipt of the appeal, the Director of People and Inclusion will provide the necessary information to the Democratic Services team, who will co-ordinate and arrange the hearing in consultation with all parties.

The panel is made up of the Chair of the Human Resources and Appeals Panel and elected Members of the Council supported by a HR representative. A member of Democratic Services will be present to take notes of the hearing.

### **Appeals against other sanctions.**

Following acknowledgement of receipt of the appeal, the Director/ Assistant Director for the service will make arrangements for the appeal to be heard.

The panel is made up of 2 Senior Managers who have not previously been involved in the case, supported by a HR representative. A note taker may also be present at the hearing.

### **Process**

- The Chair of the original Hearing will present the management case to the hearing panel and may be accompanied by the HR representative who advised them during the Hearing. The HR representative's role is to provide support during the hearing if required, not to present the case.

- The applicant and respondent will be given at least 12 working days' notice of the date of the appeal.
- All statements and documentation to be referred to at the hearing (including any new evidence to be considered) will be submitted 6 working days prior to the hearing date, along with the names of any witnesses to be called.
- Papers will be distributed to Panel members, applicant and respondent 5 working days prior to the appeal.

## **Procedure**

The Chair of the appeal Hearing will introduce everybody and explain the following procedure to both sides: -

1. The employee will be given the opportunity to state their case, explaining the reasons for the appeal.
2. Management may ask the employee questions.
3. The panel and the HR representative may also take the opportunity to ask questions.
4. Management will state the nature of the case, and the reasons for the sanction/dismissal.
5. The employee and representative may ask management questions.
6. The panel and the HR representative may also take the opportunity to ask questions.
7. If appropriate, there may be a general discussion to establish all the facts and/or clear up any misunderstandings.
8. Management and employee may summarise the main points of their case. No new evidence or information may be included.
9. The panel will adjourn to consider the case, with the HR representative.
10. If the Chair wishes to clarify any points of evidence, both sides will be recalled.
11. The Chair will reconvene the hearing to deliver the decision of the Hearing.
12. The decision of the Chair will normally be given verbally at the end of the Hearing and will be confirmed in writing to both parties.
13. There is no further right of appeal, so the process ends.



## Appendix 3: Ill health retirement for current members of the Local Government Pension Scheme

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Ill health retirement should be considered when all other channels to keep an individual in work have been exhausted and dismissal is being considered.

This guidance relates to members of the Local Government Pension Scheme (LGPS). Separate arrangements apply for staff in the Teachers' Pension Scheme.

To be eligible for an ill health pension from the Local Government Pension Scheme (LGPS) an employee must:

- Be under normal pension age (see glossary)
- Be dismissed by their employer on the grounds of ill health
- Have been a member for at least two years at the date of leaving (see glossary)
- Meet the LGPS criteria for retiring on ill health

Members of the Local Government Pension Scheme may qualify for ill health retirement and immediate payment of benefits if, in the opinion of an independent specially qualified doctor they:

- Are permanently incapable of doing their own job because of ill health, and
- Are not immediately capable of carrying out any gainful employment (see glossary)

### Glossary

**Normal pension age:** for current scheme benefits this is 65 or State Pension Age if later

**Two year requirement:** this means the employee has paid in to the scheme for two years or more. The requirement may also be met if the employee has paid in for less than two years but brought in a transfer of any type.

**Permanently incapable:** this means you have a medical condition which will, more likely than not, prevent you from carrying out your job, until at least normal pension age.

**Gainful employment:** this means paid employment with any organisation – of at least 30 hours a week for a period of at least 12 months.

There are graded levels of benefit based on how likely employees will be capable of obtaining gainful employment after they leave. The different levels of benefit are:

#### Tier 1

If the employee is UNLIKELY to be capable of carrying out gainful employment before their normal pension age. Benefits are based on the pension that has been built up to the date of the employee's retirement, plus an ill health enhancement that is based on 100% of the further annual pension they would have built up between leaving and their normal pension age.

## **Tier 2**

If the employee is unlikely to be capable of carrying out any gainful employment within 3 years of leaving, but it is likely they will be capable of doing so before their normal pension age. Benefits are based on the pension that has been built up to the date of the employee's retirement, plus an ill health enhancement that is based on 25% of the further annual pension they would have built up between leaving and their normal pension age.

## **Tier 3**

If the employee is **LIKELY** to be capable of carrying out gainful employment within 3 years of leaving, or before their normal retirement age if sooner.

Benefits are based on their membership at leaving. There is no ill health enhancement. If a lump sum is payable, it is theirs to keep but the pension will normally be stopped after 3 years; or earlier if they are in gainful employment or, a medical review after 18 months considers them capable of undertaking such employment.

For part time employees, any extra membership awarded due to ill-health retirement will be reduced to reflect their part -time hours at leaving, disregarding any reduction in hours due to their illness.

Once ill health retirement is accepted the employee does not have the right to use up their entitlement to occupational sick pay before their employment is terminated.

HR Business Partners will deal with the arrangements for retirement. The retirement date will follow relevant notice periods. No pay in lieu of notice will be made.

For more information advice is available from the Pensions Team.

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